

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

JOHN VANCE ROCHA,  
Petitioner,  
v.  
UNKNOWN,  
Respondent

Case No. 1:18-cv-00791-EPG-HC

**ORDER TRANSFERRING CASE TO THE  
NORTHERN DISTRICT OF CALIFORNIA**

Petitioner is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

When a prisoner files a state habeas petition in a state that contains two or more federal judicial districts, the petition may be filed in either the judicial district in which the petitioner is presently confined or the judicial district in which he was convicted and sentenced. See 28 U.S.C. § 2241(d); Rumsfeld v. Padilla, 542 U.S. 426, 442 (2004) (quoting Carbo v. United States, 364 U.S. 611, 618, 81 S. Ct. 338, 5 L. Ed. 2d 329 (1961)). Petitions challenging the execution of a sentence are preferably heard in the district where the inmate is confined. See Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989). Petitions challenging convictions or sentences are preferably heard in the district of conviction. See Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968). Section 2241 further states that, rather than dismissing an improperly filed action, a district court, “in the exercise of its discretion and in furtherance of justice[,] may

1 transfer” the habeas petition to another federal district for hearing and determination. *Id.*; see also  
2 28 U.S.C. § 1404(a) (court may transfer any civil action “to any other district or division where it  
3 might have been brought” for convenience of parties or “in the interest of justice”).

4 Here, Petitioner’s claims relate to his conviction and sentence that occurred in the Santa  
5 Clara County Superior Court, and thus, the petition is preferably heard in the district of  
6 conviction, which is the Northern District of California. Therefore, this action will be transferred.

7 Accordingly, IT IS HEREBY ORDERED that this action is transferred to the United  
8 States District Court for the Northern District of California.

9  
10 IT IS SO ORDERED.

11 Dated: June 12, 2018

12 /s/ *Evan P. Gruj*  
13 UNITED STATES MAGISTRATE JUDGE

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